

DECLARATION OF JONATHAN DIAZ
(pursuant to 28 U.S.C. § 1746)

I, Jonathan M. Diaz, hereby declare as follows:

1. I am Legal Counsel at the Campaign Legal Center (“CLC”) and counsel for plaintiffs in the above-captioned case, *Mays v. Husted*. The testimony set forth in this Declaration is based on first-hand knowledge, about which I could and would testify competently in open Court if called upon to do so. This Declaration is submitted in support of plaintiffs’ Motion for *Emergency* Temporary Restraining Order.

2. On November 1, 2018, I participated in a telephone conference with Jack Christopher, General Counsel to Secretary of State Jon Husted. My colleague at CLC Adav Noti and two election attorneys from the Secretary of State’s office also participated in the conference.

3. During that conference, CLC raised as a potential Equal Protection violation that the Secretary provides no mechanism for late-jailed voters to cast ballots.

4. The Secretary’s counsel responded, *inter alia*, that Ohio election law provides no mechanism by which such voters can vote.

5. CLC proposed that the Secretary could exercise his authority as the State’s chief election officer to implement a mechanism similar to that which is available to late-hospitalized voters under Ohio Rev. Code § 3509.08(B).

6. The Secretary’s counsel responded that Ohio law provides these voters with no option to vote and that the Secretary has no statutory authority to implement a procedure that would allow them to vote. The Secretary’s counsel suggested that the only recourse for these voters would be to pursue a remedy through litigation.

7. I have reviewed the booking reports for Plaintiffs Tommy Ray Mays II and Quinton Nelson Sr., available publicly on the Montgomery County Sheriff's website at <http://mont.miamivalleyjails.org>. I understand that Plaintiff Mays was arrested on November 3, 2018 at 7:05 P.M., and his next court date is November 13, 2018 at 2:30 P.M. I understand that Plaintiff Nelson was arrested on November 2, 2018 at 10:08 P.M., and his next court date is November 19, 2018 at 1:30 P.M.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this Declaration was prepared in Dayton, Ohio on November 5, 2018.

/s/ Jonathan M. Diaz
Jonathan M. Diaz